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BEFORE THE ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION
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IN THE MATTER OF THE APPLICATION OF
GLOBAL WATER – PALO VERDE UTILITIES
COMPANY FOR THE ESTABLISHMENT OF JUST
AND REASONABLE RATES AND CHARGES FOR
UTILITY SERVICE DESIGNED TO REALIZE A
REASONABLE RATE OF RETURN ON THE FAIR
VALUE OF ITS PROPERTY THROUGHOUT THE
STATE OF ARIZONA

DOCKET NO. SW-20445A-09-0077

IN THE MATTER OF THE APPLICATION OF
VALENCIA WATER COMPANY – GREATER
BUCKEYE DIVISION FOR THE ESTABLISHMENT
OF JUST AND REASONABLE RATES AND
CHARGES FOR UTILITY SERVICE DESIGNED TO
REALIZE A REASONABLE RATE OF RETURN ON
THE FAIR VALUE OF ITS PROPERTY
THROUGHOUT THE STATE OF ARIZONA

DOCKET NO. W-02451A-09-0078

IN THE MATTER OF THE APPLICATION OF
WILLOW VALLEY WATER CO. FOR THE
ESTABLISHMENT OF JUST AND REASONABLE
RATES AND CHARGES FOR UTILITY SERVICE
DESIGNED TO REALIZE A REASONABLE RATE
OF RETURN ON THE FAIR VALUE OF ITS
PROPERTY THROUGHOUT THE STATE OF
ARIZONA

DOCKET NO. W-01732A-09-0079

IN THE MATTER OF THE APPLICATION OF
GLOBAL WATER – SANTA CRUZ WATER
COMPANY FOR THE ESTABLISHMENT OF JUST
AND REASONABLE RATES AND CHARGES FOR
UTILITY SERVICE DESIGNED TO REALIZE A
REASONABLE RATE OF RETURN ON THE FAIR
VALUE OF ITS PROPERTY THROUGHOUT THE
STATE OF ARIZONA

DOCKET NO. W-20446A-09-0080

IN THE MATTER OF THE APPLICATION OF
WATER UTILITY OF GREATER TONOPAH FOR
THE ESTABLISHMENT OF JUST AND
REASONABLE RATES AND CHARGES FOR
UTILITY SERVICE DESIGNED TO REALIZE A
REASONABLE RATE OF RETURN ON THE FAIR
VALUE OF ITS PROPERTY THROUGHOUT THE
STATE OF ARIZONA

DOCKET NO. W-02450A-09-0081

Global's Reply Brief

1 IN THE MATTER OF THE APPLICATION OF
2 VALENCIA WATER COMPANY – TOWN
3 DIVISION FOR THE ESTABLISHMENT OF JUST
4 AND REASONABLE RATES AND CHARGES FOR
5 UTILITY SERVICE DESIGNED TO REALIZE A
6 REASONABLE RATE OF RETURN ON THE FAIR
7 VALUE OF ITS PROPERTY THROUGHOUT THE
8 STATE OF ARIZONA

DOCKET NO. W-01212A-09-0082

Global's Reply Brief

1 **I. Introduction.**

2 **A. Many of Global's points are undisputed.**

3 Staff, RUCO, the Water Utility Association of Arizona (WUAA),¹ New World Properties
4 (NWP) and the City of Maricopa, in their closing briefs, do not dispute many of Global's
5 contentions. For example, they did not dispute that the Commission should adopt: (1) Global's
6 proposed rate-phase in for Palo Verde; (2) Global's proposed Low Income Tariff; and (3)
7 Global's DSM tariff. Nor have the parties disputed Global's proposed rate bases (except for the
8 ICFA issues) or Global's cost-allocation method. Likewise, most expense issues are undisputed.
9 Most importantly, none of the parties have disputed the benefits of Total Water Management
10 (TWM) or the benefits of acquisitions to consolidate Arizona's highly-fragmented water utility
11 sector.

12 **B. ICFAs.**

13 While the parties do not dispute the benefits of TWM and acquisitions, some of them
14 argue that TWM and acquisitions can be achieved without ICFAs. But none of the parties
15 disputed that the Global Utilities are the only utilities in Arizona pursuing TWM, or that few
16 acquisitions have occurred (other than Global's). There is simply no basis in the record to
17 believe that utilities in Arizona will pursue TWM or acquisitions without ICFAs. Thus, if the
18 Commission likes groundwater-dependant utilities, inefficient infrastructure, and a fragmented
19 water utility sector, it should treat ICFAs as CIAC. But if the Commission believes that TWM
20 and acquisitions are important for Arizona's future, then the Commission should consider
21 ICFAs, as the only proven method for achieving TWM and acquisitions in Arizona.

22 Staff and RUCO argue that the Commission should follow its "traditional" approach and
23 treat ICFAs as CIAC. Yet Global's, Staff's and RUCO's witnesses all agree that ICFAs are
24 unique. If ICFAs are unique and unprecedented, how can there be a "traditional" method of
25 dealing with them?

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¹ All defined terms used in this reply brief have the definitions specified in the Glossary to
Global's Closing Brief, unless otherwise defined herein.

1 Staff and RUCO also suggest that if the Commission accepts ICFA's here, other utilities
2 will exploit that decision. But Mr. Hill testified that the Commission should adopt a stringent
3 test to ensure that ICFA's are not misused. Nor have Staff and RUCO explained why policing
4 ICFA use would be any more difficult than the other ratemaking issues they must explore and
5 audit.

6 **C. Comparison of Global's position to the APS settlement agreement.**

7 Maricopa decries the "dramatic and unreasonable" rate increase requested by the Global
8 Utilities.² The Global Utilities know the increase is significant, and they have taken many steps
9 to limit the increase, such as:

- 10 • a three-year phase-in for wastewater rates, with no recovery of the foregone
11 revenue;
- 12 • a five-year phase-in for recycled water and non-potable raw water, with no
13 recovery of the foregone revenue;
- 14 • imputing \$115 million in low cost parent-level debt to the Global Utilities;
- 15 • excluding \$32 million in "Southwest Plant" from rate base;
- 16 • a Low-Income Tariff;
- 17 • a DSM program funded by Global, not customers;
- 18 • stipulating to Staff's cost of equity; and
- 19 • no "fair value" rate base, and no post-testy year plant ("PTYP").

20
21 Maricopa's brief mentions none of these voluntary actions by Global. Because of these
22 actions to protect Global's customers, the Global Utilities will not earn a reasonable return on
23 their investment "at any point in the next four years."³ Yet even Maricopa agrees that the Global
24 Utilities "are entitled to make a reasonable rate of return on their investments."⁴ Thus, the
25 Global Utilities' requested rate increase is not "dramatic and unreasonable." A comparison to
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27 ² Maricopa Br. at 3:3-4.

³ Tr. (Hill) at 36:14-23.

⁴ Maricopa Br. at 3:13-14.

the Commission's most recent APS rate order⁵ demonstrates that Global's proposed rates are reasonable:

	Global	APS
Post Test Year Plant	No	Yes – 18 months
CWIP	No	Yes
Cost of Equity	10.0%	11.0%
Rate Phase-In	Yes	No
Return on Fair Value Increment	No	Yes
Interim Rates	No	Yes
\$32 Million removed from rate base	Yes	No
Developer Funds	Global = Treat as CIAC, unless used for TWM or acquisitions Staff, RUCO, Maricopa = all CIAC	Treat as Revenue (Schedule 3)
DSM	Yes, funded by utility	Yes, funded by ratepayers
Low Income Tariff	Yes	Yes
Renewable Energy Funding	Global = Yes Staff, RUCO, Maricopa = No	Yes
Previous rate orders	8 – 12 years ago ⁶	2.5 years ago ⁷
Staff "Good Faith" commitment to process next rate case w/in 12 months	No	Yes
Adjustors & Pass-Thru Mechanisms	Global = 5 (Low Income; Renewable Energy; CAGR; Property Tax; Franchise / P3 fee) Staff, RUCO, Maricopa = none	4 adjustors approved (Power Supply Adjustor; Transmission Cost Adjustor; DSM adjustor; Renewable Energy Adjustor)

⁵ Decision No. 71448 (Dec. 30, 2009).

⁶ Staff Br. at 1, footnote 3.

⁷ Decision No. 69663 (June 28, 2007).

1 **II. Global’s renewable energy tariff should be approved.**

2 The Global Utilities have numerous facilities, some of which are substantial users of
3 power. Many of these facilities have extra space due to setback requirements. The availability
4 of land located next to electrical load makes these facilities ideal locations for distributed
5 renewable energy projects. Global’s proposed Distributed Renewable Energy Adjustor
6 Mechanism (DREAM) tariff will enable the Global Utilities to construct renewable energy
7 projects at these sites. Moreover, power is the second-largest expense for water utilities, so
8 controlling power expenses is important.⁸

9 Staff, RUCO and Maricopa oppose the DREAM tariff. Staff argues that Global is “not
10 required” by law to pursue renewable energy.⁹ But Global isn’t “required” to follow TWM
11 either. Both the DREAM tariff and TWM involve Global pursuing important environmental
12 goals by exceeding regulatory requirements. If Staff is suggesting that utilities should do only
13 what they are “required” to do, and nothing more, such a suggestion should be firmly rejected.
14 Staff also argues that adjustors should only be approved to meet “government-mandated
15 standards” or when an expense is both large and highly variable. But not all adjustors meet
16 Staff’s self-imposed test. For example, APS’s DSM adjustor does not; nor do adjustors for water
17 utility Low-Income Tariffs. Moreover, while the REST tariff is required, it does not meet the
18 “large and highly variable” test.

19 Staff also argues that many of Global’s customers are already paying APS’s REST tariff,
20 and should not have to pay a second renewable charge. But it’s the total amount paid that
21 matters; not whether it is in one charge or two. Moreover, most of Global’s customers are
22 customers of ED3, which is notoriously unsupportive of renewable energy and is not subject to
23 the Commission’s REST requirements.

24 Staff also contends that further investments in renewable energy may not be
25 economically justified.¹⁰ Staff argues that at current electricity prices, renewable projects do not
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27 ⁸ Ex. A-22 (Moe Rebuttal) at 13:7-13.

⁹ Staff Br. at 39.

¹⁰ Staff Br. at 41.

1 result in “net savings.”¹¹ But by that standard, the REST tariff is also not economically justified.
2 In reality, electric prices are unlikely to stay constant; they have consistently gone up. Indeed,
3 ED3’s prices have increased markedly in recent years,¹² and APS has received yet another rate
4 increase.¹³ Staff concedes that increased electricity prices will improve the economics of
5 renewable projects.¹⁴ If the Commission believes that despite natural gas price volatility,
6 potential stricter NOx regulation, potential regulation of carbon emissions, coal ash issues, and
7 other factors, the price of electricity will stay the same or fall, then it should reject the DREAM
8 tariff. But if the Commission believes that the price of electricity will rise, then the DREAM
9 tariff is good insurance that will protect customers from those increased costs.

10 Staff also argues that renewable energy technology “is still rapidly evolving” and that
11 plants built today may be “inefficient” or “imprudent.”¹⁵ Yet this is true for every renewable
12 project, including those under the REST tariff.

13 Lastly, Staff argues that the costs of any renewable projects should be recovered through
14 the traditional rate process.¹⁶ But if that were true, why do electric utilities require a REST
15 charge rather than building renewable projects using the traditional rate process? Moreover,
16 Global has stated that it cannot pursue renewable projects through the traditional rate process.¹⁷
17 Indeed, Global has sharply curtailed capital expenditures due to current economic conditions.¹⁸
18 Moreover, given Staff’s stated concerns that renewable projects “may be inefficient or result in
19 imprudent costs,”¹⁹ it would be highly risky for Global to rely on the traditional rate process to
20 recover renewable project costs and even more risky for debt or equity investors to provide
21 capital for these investments.

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24 ¹¹ Staff Br. at 41.

25 ¹² Ex. A-9 (Hill Rejoinder) at 2-3.

26 ¹³ Decision No. 71448 (December 30, 2009).

27 ¹⁴ Ex. A-45, at Staff Response to Global 2.29.g.

¹⁵ Staff Br. at 41:5.

¹⁶ Staff Br. at 41-42.

¹⁷ Ex. A-8 (Hill Rebuttal) at 11:7-15 (discretionary capital projects suspended).

¹⁸ Id.

¹⁹ Staff Br. at 41:5.

1 RUCO and Maricopa mostly echo Staff's arguments. RUCO also argues that adjustors
2 should be approved only "under the most dire and extreme circumstances" and that it finds the
3 "proliferation" of adjustors "alarming."²⁰ But it seems that RUCO's real argument is with the
4 Commission, not Global, because it is the Commission that has approved many adjustors (such
5 as those for APS), few of which were approved under "dire and extreme circumstances." While
6 adjustors should not be approved haphazardly or for every expense, adjustors that support policy
7 objectives (such as renewable energy or support for low-income customers) are particularly
8 appropriate.

9 **III. ICFA funds should not be treated as CIAC when they are used for acquisitions or**
10 **for the carrying cost of TWM infrastructure.**

11 **A. ICFAs are an essential tool to support TWM.**

12 No party disputes the benefits of TWM. Indeed, RUCO calls TWM "visionary" and a
13 "good idea."²¹ Those benefits include reducing groundwater use 40-60% and creating more
14 efficient infrastructure with lower operating costs.²² Rather than attacking TWM, Staff and
15 RUCO argue that TWM can be achieved through ordinary ratemaking methods, such as using
16 CIAC or placing the TWM facilities into rate base. A key part of TWM is building regional
17 infrastructure covering multiple developments to capture economies of scale, thus making TWM
18 affordable. But developers have no interest in helping other developers, or reducing operating
19 costs for infrastructure they will not own; therefore they will not pay for TWM through CIAC.²³
20 As Mr. Hill explained, "developers who build infrastructure... always build the lowest cost, least
21 operable utilities that are out there."²⁴

22 As Staff notes in their brief, the Commission's rules prohibit charging developers for
23 "over sizing" infrastructure to serve other developments.²⁵ Thus, under a main extension
24 agreement, the incremental cost of the oversized infrastructure is paid by the utility as

25 ²⁰ RUCO Br. at 10:5 and 13:4-5.

26 ²¹ RUCO Br. at 2:18-19.

27 ²² See Global Br. at 18 and 24:16-25:2.

²³ See Global Br. at 19-21.

²⁴ Tr. at 143:8-10.

²⁵ Staff Br. at 31:6-21.

1 investment. The utility only begins to recover this investment when the oversized infrastructure
2 is placed into service, and then goes through a rate case, and even then it will be subject to a
3 potential “used and useful” challenge from RUCO. In fact, RUCO has argued extensively
4 against allowing regionally-sized plant sized into rate base until it is fully used, at which point
5 the utility will, of course, have to begin planning and construction of more plant. The utility
6 bears the “carrying cost” of these investments until they are finally approved in rate base. In a
7 TWM scenario, where 20 to 40 developers are often involved, these carrying costs will be large.
8 Including one developer’s specific costs in a main extension agreement does nothing to cover the
9 costs associated with the other 39 developers.

10 If TWM were feasible under traditional ratemaking, then why isn’t anybody else doing
11 it? Certainly, the other large utilities in Arizona are aware of this widely-discussed concept²⁶,
12 and they have the technical sophistication to design and build such projects. It is not reasonable
13 to assume that other utilities don’t care about the environment or aren’t interested in the long-
14 term viability of the communities they serve. The only plausible explanation for these other
15 utilities not using TWM is that TWM is not economically feasible under traditional ratemaking.
16 Utilities just can’t afford to cover the large carrying costs of the “over sized” regional
17 infrastructure for TWM.

18 Moreover, the idea that main extensions will completely shield ratepayers from those
19 costs is not accurate, even in the rare case when a development is so large that installing TWM-
20 like infrastructure just for that one development is possible. That was the case in Anthem – and
21 as the advances have been repaid, rate base has sky-rocketed, causing an on-going series of rate
22 cases. We doubt that any of the many Anthem residents who have made public comments over
23 the years in Anthem rate cases would extol the virtues of main extension agreements.

24 Staff claims its “most telling” point is that Global’s *Total Water Management* white
25 paper,²⁷ lacks “any reference to ICFAs.”²⁸ Staff suggests that this means there isn’t really a link

26 Ex. A-8 (Hill Rebuttal) at 4-6 (TWM concept not invented by Global; TWM discussed in various publications).

27 Ex. A-10.

28 Staff Br. at 27:18-23.

1 between TWM and ICFAs. It's true that the white paper doesn't mention ICFAs. It also doesn't
2 mention debt or equity or CIAC. The white paper doesn't discuss financing – that omission
3 doesn't mean that financing doesn't matter – it only means that the *Total Water Management*
4 white paper addresses other topics, such as providing an overview of how recycled water works,
5 providing a number of case studies of its successful use around the world, and discussing the cost
6 of recycled water compared to groundwater.

7 Notably, the costs of recycled water infrastructure per EDU described in *Total Water*
8 *Management* greatly exceed the per EDU fees collected under ICFAs.²⁹ If Staff were correct that
9 ICFAs are just CIAC by another name, those numbers should be the same or very close.
10 Likewise, Mr. Hill testified that from inception Global has collected \$60 million (pre-tax) in
11 ICFA fees, but has built \$200 million in infrastructure.³⁰ The fact that ICFA fees are much lower
12 than the cost of the facilities supports the fact that ICFAs cover carrying costs, not the cost of the
13 facilities.

14 Maricopa argues that the Commission should “ensure” that utilities engage in regional
15 planning.³¹ While that would be a good idea, such planning would not cover the carrying costs
16 of regional infrastructure, nor the acquisition premiums needed to buy small utilities. Moreover,
17 Staff notes that “normally” the Commission does not “adopt standards for regional planning.”³²

18 Maricopa also argues that Global took unnecessary risks by using ICFAs without
19 obtaining Commission pre-approval. The Commission's decision should be based on the merits,
20 not on a perceived procedural deficiency. Moreover, the Commission had an open docket
21 regarding ICFAs and other non-traditional financing methods, but the Commission never took
22 action, and in any event, the Commission almost never grants pre-approvals on rate issues,
23 preferring to address rate issues in fully-litigated rate cases.

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26 ²⁹ Compare Ex. A-10 at 26, 28 (Basic Reclamation = \$6,694/EDU) to Ex. S-2:4 (ICFA fee =
27 \$2,800/EDU) or Ex. A-10 at 26, 28 (Advanced Reclamation = \$8,214/EDU) to Ex. A-48 at 25
(Belmont ICFA)(ICFA fee = \$5,000/EDU).

³⁰ Tr. at 163:2-3.

³¹ Maricopa Br. at 13:12-14.

³² Ex. S-11 (Jaress Surrebuttal) at 8:10-13.

1 **B. ICFAs are a key tool for promoting acquisitions.**

2 The briefs of the other parties do not dispute the highly-fragmented nature of Arizona's
3 water utility sector, or the increased economies of scale and greater managerial, technical and
4 financial resources of larger utilities or utility holding companies. Unable to attack the benefits
5 of acquisitions, Staff, RUCO, and Maricopa argue that acquisitions can be financed through
6 other means. But other than Global's acquisitions, few acquisitions have occurred.³³ It is not
7 reasonable to assume that other utilities are uninterested in adding territory and customers. The
8 reason they rarely pursue acquisitions in Arizona is that acquisitions almost never make
9 economic sense under traditional ratemaking.³⁴ This is because existing utility owners will not
10 sell without a significant premium over rate base.³⁵

11 Traditionally, there are two options for dealing with the resulting acquisition premium.
12 First, the buyer can absorb the costs "below the line" without any rate recovery. That is a highly
13 unappealing approach, and understandably utilities are not lining up to use that method. The
14 second method is to ask the Commission to include the acquisition premium in rate base as an
15 acquisition adjustment. But the Commission rarely approves acquisition premiums.³⁶ And even
16 when they are approved, they harm ratepayers by increasing rate base without increasing plant
17 capacity. Thus, Maricopa's argument that acquisition adjustments protect ratepayers is incorrect
18 and unsupported by any testimony.³⁷

19 Staff seemingly concedes that few, if any, acquisitions will occur under its "traditional"
20 approach. Staff implies that the purchase of WMC was not a prudent transaction, and states that
21 it is "unmoved" by the fact that the WMC transaction would not have happened without
22 ICFAs.³⁸ Staff does not discuss WMC's history (under prior management) of compliance issues,
23 its poorly designed infrastructure, or its water quality problems (e.g. brown water in Willow
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³³ See Global Br. at 10-12.

26 ³⁴ See Global Br. at 14-15.

27 ³⁵ See Global Br. at 15-16.

³⁶ Tr. (Jaress) at 790:14-22 and 792:6-11.

³⁷ Maricopa Br. at 13:1-8.

³⁸ Ex. S-11 (Jaress Surrebuttal) at 15:17-23.

1 Valley).³⁹ Staff also states that “not all small water companies are good candidates for purchase
2 and consolidation.”⁴⁰ Likewise, RUCO argues that acquisitions are simply a “business decision”
3 and that if the acquisition is not justified using “traditional ratemaking” the deal is at the
4 company’s “peril.”⁴¹ Very, very few acquisitions have occurred using Staff’s and RUCO’s
5 traditional approach, and it is not reasonable to expect a different result in the future unless
6 something is changed.

7 In short, the two traditional methods do not appeal to buyers or ratepayers, nor are they
8 effective in promoting acquisitions. The ICFA is a new, third method of financing acquisitions
9 using developer funds. It protects ratepayers by holding rate base constant. And it makes
10 acquisitions economically feasible for the buyer.

11 Staff argues that there is no difference between constructing plant with developer funds
12 and acquiring a utility with developer funds.⁴² But in traditional ratemaking, a utility’s rate base
13 should not change due to an acquisition.⁴³ Yet under Staff’s and RUCO’s approach, the utility’s
14 rate base is reduced by the acquisition price; reducing revenue requirement in all cases, and in
15 some cases, resulting in a negative rate base. Moreover, under the Commission’s rules, the
16 original cost of infrastructure is determined at the time the infrastructure is placed into utility
17 service, not at the time of some later acquisition.⁴⁴ Lastly, even if Staff were correct that original
18 construction and an acquisition are equivalent, that principle should only apply to the depreciated
19 original cost of the facilities, not any acquisition premium (which will not be included in rate
20 base and thus will not generate any return). Because almost all of the purchase prices paid by
21 Global were acquisition premiums,⁴⁵ they should not be deducted from rate base under any
22 circumstances.

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24 ³⁹ See Global Br. at 9-10 for a discussion of these issues.

25 ⁴⁰ Ex. S-11 (Jaress Surrebuttal) at 9:2-3.

26 ⁴¹ RUCO Br. at 7:15-22.

27 ⁴² Staff Br. at 28.

⁴³ Tr. (Rowell) at 416:6-7; Tr. (Jaress) at 802-804 (revenue requirement should remain the same before and after acquisition).

⁴⁴ A.A.C. R14-2-102.A.6 and A.A.C. R14-2-103.A.3.e.

⁴⁵ Ex. A-13 (Rowell Rebuttal) at 24:17-24; see also Tr. (Hill) at 304:9-18(WMC).

1 Staff argues that “absent from [Global’s] direct testimony is any documentation” showing
2 that ICFA fees were used to pay for acquisitions.⁴⁶ But Mr. Hill’s direct testimony specifically
3 states that Global spent \$43,871,802 in ICFA-related acquisitions.⁴⁷ Mr. Rowell’s direct also
4 states that ICFA fees were used to pay for acquisitions.⁴⁸ If Staff is objecting to the absence of
5 any source documents in the pre-filed direct, it is not customary to attach invoices, cancelled
6 checks, journal entries or other source documents to Class A rate applications. If Staff desired to
7 review source documents, it was free to request them in data requests. Ms. Jaress testified that
8 Global never denied Staff access to information regarding acquisitions.⁴⁹ In addition, Staff
9 conducted an on-site audit at Global’s headquarters to review source documents.⁵⁰ Further,
10 Global provided Staff a copy of Global’s audited financial statements, which included details of
11 the amounts spent on acquisitions and the links between acquisitions and ICFAs.⁵¹ Thus, Staff
12 had significant information concerning ICFA fees spent on acquisitions, and they had access to
13 any additional source documents they wanted. Moreover, elsewhere Staff concedes that Global
14 collected ICFA fees “[i]n order to deal with a variety of issues, including covering acquisition
15 premiums for purchasing troubled water utilities.”⁵²

16 In short, ICFAs are an important new way of financing acquisitions using developer
17 funds. This protects ratepayers. Ratepayers are held harmless because the acquisition does not
18 change the rate base of the utility. This is in direct contrast to using acquisition adjustments,
19 which by definition increase rate base. And ratepayers benefit from economies of scale,
20 increased access to capital, greater managerial and technical expertise and the like. While
21 protecting ratepayers, ICFA-funded acquisitions are also appealing to the buyer. And developers
22 benefit by having a competent utility in place – explaining why they agree to make these
23 payments. Thus, using ICFA fees for acquisitions is a “win-win-win” approach that benefits

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25 ⁴⁶ Staff Br. at 25:8-10.

26 ⁴⁷ Ex. A-7 (Hill Direct) at 32:17-25.

27 ⁴⁸ Ex. A-12 (Rowell Direct) at 12:22-25.

⁴⁹ Tr. (Jaress) at 844:2-4.

⁵⁰ Tr. (Jaress) at 844:5-8.

⁵¹ Ex. S-3 at 18-21.

⁵² Staff Br. at 2:3-4.

1 ratepayers, utility buyers, and developers. But none of that will happen if ICFA fees used for
2 acquisitions are treated as CIAC.

3 **C. Excessive CIAC is dangerous.**

4 Arizona needs alternatives to CIAC. As Mr. Hill noted, “Arizona is plagued with
5 undercapitalized, poorly run water companies” and over-emphasis on CIAC “puts infrastructure
6 decisions into the hands of homebuilders, it puts system planning into the hands of accountants,
7 and it results in companies that have no ability to earn on ... [much] of their plant.”⁵³ He also
8 explained these utilities are “unfinanceable” because “[y]ou can’t get a bank loan” based on
9 CIAC.⁵⁴

10 RUCO accuses Global of having “disdain for CIAC.”⁵⁵ But the difference between
11 Global and RUCO appears to be more tone than substance. RUCO acknowledges that an
12 “overreliance on CIAC... is never a good utility strategy.”⁵⁶ Likewise, Staff states that an “over-
13 reliance” on CIAC “could create weak, undercapitalized utilities.”⁵⁷ Thus, there is wide-spread
14 agreement on the dangers of excessive CIAC.

15 As Mr. Hill explained, CIAC isn’t really cost-free – its implicit cost is the higher
16 operating costs caused by substandard infrastructure designed to serve only one development,
17 not an entire region.⁵⁸ Those higher costs are included in consumer rates for the life of the
18 infrastructure – often 50 years or more. Moreover, weak, undercapitalized utilities will likely
19 have significantly higher financing costs – if they can obtain financing at all. Thus, Staff’s
20 implication that a CIAC-based system will lead to lower rates⁵⁹ is likely incorrect. As even
21 RUCO acknowledges, the “end result of lopsided financing methods is typically unfair and
22 unreasonable rates.”⁶⁰

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24 ⁵³ Ex. A-8 (Hill Rebuttal).

25 ⁵⁴ Tr. at 102-103; see also Tr. at 105-106.

26 ⁵⁵ RUCO Br. at 5:11.

27 ⁵⁶ RUCO Br. at 7:9-10.

⁵⁷ Staff Br. at 30.

⁵⁸ Tr. at 166:3-11.

⁵⁹ Staff Br. at 31; Ex. S-10 (Jaress Direct) at 13:1-6.

⁶⁰ RUCO Br. at 7:11-12.

1 Surprisingly, Staff puts forward Johnson Utilities as an example of a new utility that
2 made appropriate use of CIAC.⁶¹ As Mr. Hill testified, Johnson Utilities is a classic example of
3 the consequences of over-reliance on CIAC – an “uneconomical utility to operate” with
4 undersized, inefficient facilities and “basically no rate base.”⁶² And Mr. Rowell demonstrated
5 Johnson’s operating costs per customer are by far the highest of any of its peers.⁶³ Global agrees
6 with Staff that Johnson is a good comparison, because Johnson is a large, new utility in Pinal
7 County, as are Santa Cruz and Palo Verde. There is a stark difference between Johnson’s model
8 and Global’s model – the Commission will have to choose which model to use for new utilities
9 in the future.

10 Staff states that the Global Utilities do “not accept CIAC”⁶⁴ or alternatively that the
11 Global Utilities have an atypically low amount of CIAC.⁶⁵ Staff goes on to suggest that this
12 means the ICFA fees must really be “CIAC by another name.”⁶⁶ But some of the Global Utilities
13 do have significant amounts of CIAC.⁶⁷ And when CIAC and AIAC are considered together, the
14 Global Utilities are similar to other large Arizona utilities.⁶⁸ As Mr. Rowell explained, the
15 “Global Utilities actually have a higher percentage of developer-funded plant than Arizona-
16 American, Arizona Water, Chaparral City Water, and the Robson Utilities.”⁶⁹ Staff concedes
17 that it should have considered both types of developer financing (CIAC and AIAC).⁷⁰ Under that
18 standard, Global is perfectly normal.

19 Moreover, even if AIAC is excluded, Global’s approach is still normal. Global’s largest
20 utilities – Santa Cruz and Palo Verde – are new. Over time, much of their AIAC will convert to
21 CIAC, and Global anticipates they will have 20 to 25% CIAC, which is consistent with national
22

23 ⁶¹ Ex. S-11 (Jaress Surrebuttal) at 14:1-10.

24 ⁶² Tr. (Hill) at 77-78; 141:18-22; 215-216.

25 ⁶³ Ex. A-13 (Rowell Rebuttal) at 18, Chart 3 (water operating costs).

26 ⁶⁴ Staff Br. at 23.

27 ⁶⁵ Ex. S-10 (Jaress Direct) at 12:17-22.

⁶⁶ Staff Br. at 28:1 (initial capitals altered to lowercase); see also Ex. S-10 (Jaress Direct) at 12.

⁶⁷ Ex. A-13 (Rowell Rebuttal) at 9:7-10.

⁶⁸ Ex. A-13 (Rowell Rebuttal) at 9-10.

⁶⁹ Ex. A-10 (Rowell Rebuttal) at 10:19-21.

⁷⁰ Ex. A-45 at Staff’s Response to Global 2.2.a.

1 averages.⁷¹ Thus, the difference between Global and other utilities is age, not excessive aversion
2 to CIAC.

3 This brings up a fundamental inconsistency in Staff's and RUCO's positions. On the one
4 hand, they encourage utilities to have a balanced capital structure including equity and debt. In
5 addition, Staff believes that new utilities "usually require higher levels of equity" and Staff
6 "generally recommends 100 percent equity" for new utilities.⁷² Yet Staff and RUCO also
7 encourage utilities to fund extensions to new developments with CIAC and AIAC. A new
8 utility such as Santa Cruz or Palo Verde cannot do both at once; if they use CIAC and AIAC for
9 their new areas, they won't have any equity. Mr. Rigsby aptly illustrated this point. He testified
10 that for a new utility it is "probably best to... finance a large amount of your plant assets with
11 equity."⁷³ Yet he also testified that utilities should use CIAC and AIAC to serve new
12 developments, with equity added in only over time.⁷⁴ A new utility cannot meet both objectives,
13 because if they use only CIAC and AIAC, they aren't putting any equity in.

14 ICFAs resolve this conundrum. Main extension agreements are used to fund "on-site"
15 infrastructure. And debt and equity is used to fund "off-site" infrastructure – but with the utility
16 and its customers shielded from development risk because the ICFA fees cover some of the
17 carrying cost of the infrastructure until it is "used and useful" and placed into rate base.

18 **D. Global's position on ICFAs has been consistent.**

19 Staff contends that Global has presented a "moving target of what ICFAs are and how the
20 Commission should treat them."⁷⁵ A close inspection of Global's statements about ICFAs shows
21 that they are highly consistent, while Staff and RUCO have been inconsistent.

22 Global addressed ICFAs in its June 23, 2006 comments in the generic docket for non-
23 traditional water financing.⁷⁶ Global made the following points, and it is still making these
24 points today, more than 1,300 days later:

25 ⁷¹ Tr. (Hill) at 99:24 to 100:3.

26 ⁷² Ex. A-38 (2006 Staff Report) at 7-8.

27 ⁷³ Tr. at 649:4-15.

⁷⁴ Tr. at 648:1-24 and 645:8-14.

⁷⁵ Staff Br. at 24.

⁷⁶ Docket No. W-00000C-06-0149.

- 1 • Recycled water has high up-front capital costs.⁷⁷
- 2 • Regional infrastructure has lower operating costs.⁷⁸
- 3 • ICFAs help cover the carrying costs of investments in regional infrastructure.⁷⁹
- 4 • Developer-financed infrastructure is designed only to meet the minimum
- 5 regulatory requirements.⁸⁰
- 6 • Traditional financing methods are inadequate to support recycled water and other
- 7 groundwater conservation methods.⁸¹
- 8 • Acquisition premiums over book value are necessary to buy small utilities.⁸²
- 9 • ICFA fees help pay acquisition premiums.⁸³
- 10 • Excessive amounts of CIAC leads to financially weak utilities.⁸⁴
- 11 • Regulated utilities should not be exposed to development risk, and ICFAs help
- 12 shield them from the risk of a failed development.⁸⁵
- 13 • ICFAs should not be treated as CIAC.⁸⁶

17 ⁷⁷ Global's June 23, 2006 Comments ("2006 Comments") at 6:1-9 and 5:19-20; *see also* Ex. A-7
18 (Hill Direct) at 33:11-14; Ex. A-24 (Symmonds Direct) at 4:23 to 5:2 and 10:11-26 and Ex A-13
19 (Rowell Rebuttal) at 23:1-12.

20 ⁷⁸ 2006 Comments at 2:21-22 and 9:12-18; *see also* Ex. A-24 (Symmonds Direct) at 7-21 and
21 Ex. A-13 (Rowell Rebuttal) at 15-23.

22 ⁷⁹ 2006 Comments. at 6:10-14 and 3:20 to 4:3; *see also* Ex. A-12 (Rowell Direct) at 8-12; Ex. A-
23 13 (Rowell Rebuttal) at 23:9-17.

24 ⁸⁰ 2006 Comments at 5:20-22; *see also* Ex. A-24 (Symmonds Direct) at 3:16-27 and 20:12-27
25 and Ex. A-8 (Hill Rebuttal) at 14:4-8 and 17:20-25.

26 ⁸¹ 2006 Comments at 5:19-24; *see also* Ex. A-12 (Rowell Direct) at 19:17 to 20:4; Ex. A-8 (Hill
27 Rebuttal) at 13-14 and 17:18-25 and 19:11-18.

28 ⁸² 2006 Comments at 7:26 to 8:3; *see also* Ex. A-12 (Rowell Direct) at 13:12-20 (example) and
29 Ex. A-8 (Hill Rebuttal) at 23:7-23.

30 ⁸³ 2006 Comments at 8:3 to 8:8; *see also* Ex. A-12 (Rowell Direct) at 13:12-20 (example) and
31 Ex. A-8 (Hill Rebuttal) at 22:19-26.

32 ⁸⁴ 2006 Comments at 14:1-7; *see also* Ex. A-12 (Rowell Direct) at 16:5-14; Ex. A-8 (Hill
33 Rebuttal) at 13-14.

34 ⁸⁵ 2006 Comments at 15:1-8; *see also* Ex. A-7 (Hill Direct) at 34; Ex. A-13 (Rowell Rebuttal) at
35 11:25 to 12:15.

36 ⁸⁶ 2006 Comments at 9-10; *see also* Ex. A-12 (Rowell Direct) at 16:16 to 17:12; Ex. A-13
37 (Rowell Rebuttal) at 33:4-7 and 34:25 to 35:26.

1 These propositions appear in Global's 2006 comments, in its direct testimony in this case, and in
2 its rebuttal testimony. Page references for each are provided in the footnotes. Global's position
3 has been highly consistent.

4 The only arguable change in position is that in rebuttal testimony, Global offered a
5 compromise proposal – to treat ICFA revenue (less taxes and expenses) as CIAC unless it was
6 used for acquisitions or for carrying costs of TWM infrastructure.⁸⁷ Because acquisitions and
7 TWM have always been the core reasons for ICFAs, this proposed compromise is consistent
8 with the underlying theory of Global's position on ICFAs. Moreover, Global does not
9 understand why Staff would want to criticize Global for trying to move closer to Staff's position.

10 In contrast, Staff has not been consistent. In its 2006 Staff Report, Staff stated that
11 ICFAs should be evaluated on a "case-by-case basis."⁸⁸ Then in its direct testimony, Staff stated
12 that ICFA fees were used to build plant⁸⁹ and should be treated as CIAC when they "are invested
13 as equity in [the] Global Utilities."⁹⁰ In surrebuttal, Staff concedes that "ICFA funds could have
14 been used for other purposes than contributions"⁹¹ but Staff treats all of the ICFA fees as
15 contributions.⁹² At the hearing, Staff recommended that all ICFA fees be treated as CIAC
16 regardless of how the fees were actually used. Ms. Jaress testified that developer funds should
17 always be considered CIAC "regardless of what purpose they were used for" and "regardless of
18 how they are actually used."⁹³

19 RUCO was also inconsistent on ICFAs. In its 2006 comments, RUCO stated that fees
20 received by a parent company for services "beyond those that are the obligation of a regulated
21 utility" should be considered equity not CIAC.⁹⁴ RUCO maintained that position in its direct
22 testimony.⁹⁵ Regarding fees for utility services, RUCO recommended they not be treated as

23
24 ⁸⁷ Ex. A-8 (Hill Rebuttal) at 26-29; Ex. A-13 (Rowell Rebuttal) at 34-35.

25 ⁸⁸ Ex. A-38 at 7.

26 ⁸⁹ Ex. S-10 (Jaress Direct) at 12:4-6.

27 ⁹⁰ Ex. S-10 (Jaress Direct) at 13:1-6.

⁹¹ Ex. S-11 (Jaress Surrebuttal) at 1:19-20.

⁹² Ex. S-11 (Jaress Surrebuttal) at Surrebuttal Schedule LAJ-2.

⁹³ Tr. at 810:13-25.

⁹⁴ Ex. A-39 at 3:6-9.

⁹⁵ Ex. R-4 (Rigsby Direct) at 14:20-23.

1 CIAC in this case.⁹⁶ And in data requests, RUCO stated that the treatment of ICFA fees used for
2 acquisitions should be “determined on a case by case basis.”⁹⁷ But in surrebuttal, RUCO
3 changed course and argued that all ICFA fees should be treated as CIAC.⁹⁸ At the hearing, Mr.
4 Rigsby was even more adamant, stating that any money Global Parent receives from developers
5 should be treated as CIAC – even if the fees are for constructing the developer’s houses.⁹⁹

6 **E. Money is fungible, but that doesn’t mean that ICFA fees are CIAC.**

7 Maricopa argues that even if ICFA fees are not used for plant, their use “frees up other
8 cash” to put into plant, and “allowed Global to expend debt or equity on plant.”¹⁰⁰ Specifically,
9 Maricopa argues that ICFA fees “increases the financial health” of Global Parent which
10 “increases Global’s access to debt.”¹⁰¹ This is all true – but irrelevant. For very good reasons,
11 the Commission does not set rates based on the financial health of a parent company. For
12 example, APS’s rates should not go up just because Pinnacle West lost money on development
13 projects for its Suncor unit. By the same token, APS’s rates would not drop just because Suncor
14 had a good year, even though that would “free up” other money to use at APS. Indeed, the
15 Commission’s Holding Company and Affiliated Interests Rules¹⁰² were adopted specifically to
16 insulate utilities from the financial risks of affiliates.¹⁰³

17 Moreover, ratepayers already benefit from the low-cost parent-level IDA debt. Staff has
18 expressed concern over Global Parent’s financial health.¹⁰⁴ And ICFA fees are the main source
19 of Global Parent’s revenue.¹⁰⁵ It is highly unlikely that Global would have been able to get this
20 debt if the ICFA fees had been treated as CIAC; and in the future, additional low-cost debt is
21 unlikely if ICFA fees are deemed to be CIAC. Maricopa essentially wants to “have its cake and

22 ⁹⁶ Ex. R-4 (Rigsby Direct) at 15.

23 ⁹⁷ Ex. A-37 at RUCO Response to Global 2.2.

24 ⁹⁸ Ex. R-7 (Rigsby Surrebuttal) at 7.

25 ⁹⁹ Tr. at 697-98.

26 ¹⁰⁰ Maricopa Br. at 7:22-28.

27 ¹⁰¹ Maricopa Br. at 7:28 to 8:1.

¹⁰² A.A.C. R14-2-801 et seq.

¹⁰³ See Decision No. 56844 (March 14, 1990) at Attachment B, pages 1-3 (recounting APS’s disastrous experience with “MeraBank” and explaining need for the rules).

¹⁰⁴ Ex. S-10 (Jaress Direct) at 3.

¹⁰⁵ Ex. S-3 (audited financial statements) at 38, “GWR” column.

1 eat it too” – changing the treatment of ICFA fees to CIAC, but keeping the benefits of treating
2 ICFAs as revenue (the low cost IDA debt).

3 In addition, Maricopa overlooks the fact that debt has to be paid back. If plant paid for
4 by IDA funds is turned into CIAC, that plant will never earn a return to meet the principal and
5 interest payments on the debt. Similarly, Staff contends that the use of ICFA fees to cover
6 carrying costs implies that the IDA bonds are cost-free capital.¹⁰⁶ This is an erroneous
7 conclusion. There is no evidence in the record that indicates the ICFA fees are sufficient to fund
8 the total interest payments on the IDA debt or any of the principal on the debt. Indeed, Global
9 does not expect to receive any ICFA fees in the near future.¹⁰⁷

10 Staff also makes much of the fact that “cash is fungible.”¹⁰⁸ But fungibility is no
11 justification for treating plant built with IDA bonds as though they were built with ICFA fees, or
12 pretending that plant built with equity by a previous owner was built with ICFA fees, or
13 pretending that plant built with AIAC was built with ICFA fees. Staff’s position requires all of
14 these illogical and counterfactual results.¹⁰⁹ As WUAA aptly notes, “money, while fungible is
15 not interchangeable. Money that comes from a specific source and is earmarked for a specific
16 purpose must be spent on that purpose.”¹¹⁰ Because IDA bond proceeds and AIAC are required
17 to be spent on specific infrastructure projects, it is not appropriate to treat those projects as
18 funded by some other source – such as ICFA fees.

19 Fungibility is not a magic spell that changes reality, nor is non-fungibility an absolute
20 requirement of ratemaking. Indeed, taken to its logical conclusion, Staff’s focus on fungibility
21 would erase all accounting and ratemaking distinctions, because all cash received by any utility
22 is fungible. When money from a specific source is required to be spent on specific
23 infrastructure, it is not reasonable to assume that the infrastructure was funded by some other
24 source. And even if Staff were correct that *some* of the ICFA fees indirectly paid for plant

25 ¹⁰⁶ Staff Opening Brief at 28:20-21.

26 ¹⁰⁷ Ex. A-9 (Hill Rejoinder) at 15:9 (2009) and Ex. A-8 (Hill Rebuttal) at 12:22-27 (2010 and
27 2011).

¹⁰⁸ Staff Br. at 23:11-12.

¹⁰⁹ See Global Br. at 30-32.

¹¹⁰ WUAA Br. at 8:6-7.

1 through fungibility, it is not reasonable to assume that *all* of the ICFA fees went to that use.
2 Moreover, even though Staff's brief argues for segregated bank accounts,¹¹¹ Staff's witness
3 testified that its recommendation would not change even if Global had used a segregated bank
4 account.¹¹²

5 **F. Parent-level expenses.**

6 Global Parent incurs expenses in generating its ICFA revenues, and the matching
7 principle requires the Commission to consider ICFA-related expenses if it is going to consider
8 ICFA-related revenues.¹¹³ Staff does not address the matching principle. Instead, Staff argues
9 that Global Parent has other revenues to pay those expenses.¹¹⁴ Staff does not explain why
10 considering unrelated expenses satisfies the matching principle. Staff points to the revenue from
11 the Global Utilities. But if utility revenues are responsible for paying these expenses, then the
12 expenses should be included in rates as recoverable expenses. If not, Staff offers no explanation
13 of why an economically rational company would continue to incur those expenses. Staff also
14 claims there are yet other revenues available to pay these expenses, but it does not identify them.
15 Moreover, Global Parent incurred \$9.3 million in expenses in 2008¹¹⁵ – there simply isn't any
16 other revenue stream that would be remotely large enough.¹¹⁶ Global's financials also show that
17 excluding ICFA fees and regulated revenues from the Global Utilities,¹¹⁷ leaves only \$2 million
18 in revenues. And the largest source of other revenues, WMC's recharge facility, has been sold.

19 Staff erroneously states Global seeks to offset "public offering costs" against ICFA
20 revenues.¹¹⁸ In fact, Global specifically stated that "public offering costs" should not be
21 considered because these costs should never be imputed to customers.¹¹⁹

23 ¹¹¹ Staff Br. at 23.

24 ¹¹² Tr. at 811:9-17.

25 ¹¹³ See Global Br. at 33.

26 ¹¹⁴ Staff Br. at 30:3-11.

27 ¹¹⁵ Ex. A-15 (Rowell Rejoinder) at 6:18-20.

¹¹⁶ Ex. S-3 at 38.

¹¹⁷ Ex. S-3 at 38, Listed under revenues as "Water usage", "Wastewater usage" and "Meter installation and connection fees".

¹¹⁸ Staff Br. at 30:6-7.

¹¹⁹ Ex. A-15 (Rowell Rejoinder) at 6:18-21.

1 **G. Taxes.**

2 Staff, RUCO and Maricopa argue that pre-tax ICFA revenue should be imputed as CIAC.
3 But only after-tax revenue can be used for investments or expenses. That's why the Commission
4 "grossed-up" contributions to water utilities back when they were taxable, as explained in
5 WUAA's brief.¹²⁰ Staff concedes that ICFAs are taxable income.¹²¹ Thus, Maricopa's argument
6 that the taxes are "self-imposed" is wrong.¹²² Likewise, because the ICFA revenues are taxable,
7 Maricopa's argument that Global or its members could just ask for refund¹²³ is incorrect. Neither
8 Maricopa nor any other party has provided a tax opinion stating that ICFA income is not taxable
9 income under the Internal Revenue Code. In contrast, Global's financial statements – audited by
10 Deloitte & Touche – treat ICFAs as revenue¹²⁴ and describe how the associated income tax
11 liability is calculated and how mandatory tax distributions are made.¹²⁵

12 Staff and Maricopa also argue that this tax liability shouldn't be considered because
13 Global Parent is an LLC. Staff argues that under traditional ratemaking, taxes to LLC members
14 are not considered. But under traditional ratemaking, parent-level revenue isn't considered
15 either. If the revenue is considered, the associated tax liability should also be considered.
16 Regardless of who files the tax return, the ICFA revenues generate a tax liability that should be
17 considered. As Mr. Hill explained, regardless of the type of entity, the same tax liability is
18 created, and the company pays the same amount.¹²⁶ The only difference is that instead of
19 directly paying the government, the funds are paid to the members, who then pay the
20 government.

21
22
23
24 ¹²⁰ WUAA Br. at 8-9.

25 ¹²¹ Tr. (Jaress) at 734:5-12 and 781:1-9.

26 ¹²² Maricopa Br. at 16:19-23.

27 ¹²³ Maricopa Br. at 16:26 to 17:13.

¹²⁴ Ex. S-3 at 11-12 (section titled "Revenue Recognition – Infrastructure Coordination and
Financing Fees").

¹²⁵ Ex. S-3 at 27 (note 11, second paragraph).

¹²⁶ Tr. at 234:6-13.

1 **H. The Southwest Plant has already been excluded from rate base.**

2 Maricopa argues that the \$32 million in Southwest Plant “must be deducted from rate
3 base.”¹²⁷ In fact, Global excluded that \$32 million when it filed its application.¹²⁸ To the extent
4 Maricopa is arguing that this plant should be deducted from rate base a second time, that idea has
5 no support in the record and no witness testified in support of it. Maricopa refers to two
6 decisions concerning the timing difference between the recognition of plant in service and
7 CIAC.¹²⁹ That timing issue has no relevance to the exclusion of the \$32 million from rate base.
8 Global never proposed an adjustment based on that timing difference (as the utilities did in the
9 decisions cited by Maricopa), so that issue simply doesn’t apply here. No party discussed the
10 timing issue in testimony.

11 Maricopa suggests that Global should have delayed building the Southwest plant.¹³⁰ But
12 the Commission ordered the Global Utilities to build that plant by a specific deadline.¹³¹
13 Moreover, Mr. Hill testified that “many final plats were occurring in the area” and “roads and
14 sidewalks” were built and “there was every indication that this was going to be an area full of
15 homes.”¹³² Global could not have predicted the sudden collapse of the housing market. And if
16 Global had delayed as suggested by Maricopa, and growth then occurred as expected, Global
17 would have been the target of numerous lawsuits and formal complaints at the Commission.

18 **I. Safeguards and ICFA use by other utilities.**

19 Maricopa conjures the specter of multiple utilities using ICFA’s which “could prove
20 disastrous to the utility industry and ratepayers everywhere.”¹³³ The Commission need not
21 tremble before such an apparition. Global has proposed strict limits on how ICFA funds should
22 be used.¹³⁴ Staff and RUCO have the skills and experience to audit and enforce compliance with
23 those limits. If other utilities use ICFA funds to pay for acquisition adjustments or to cover the

24 ¹²⁷ Maricopa Br. at 15:13-16.

25 ¹²⁸ Ex. A-12 (Rowell Direct) at 9-12; Ex. A-24 (Symmonds Direct) at 26:14-19.

26 ¹²⁹ Maricopa Br. at 14:20-28.

27 ¹³⁰ Maricopa Br. at 12:14-18.

¹³¹ Ex. A-12 (Rowell Direct) at 12:1-8, citing Decision No. 68448.

¹³² Tr. at 224:17-25.

¹³³ Maricopa Br. at 13:20-23.

¹³⁴ See Ex. A-8 (Hill Rebuttal) at 19-22 and 26-29; Ex. A-13 (Rowell Rebuttal) at 34-35.

1 carrying costs of TWM infrastructure, so much the better – Arizona has a great need for
2 acquisitions and for TWM. And if the fees are not used for those purposes, the Commission is
3 free to determine an appropriate CIAC imputation. Moreover, while Maricopa points to
4 hypothetical problems with ICFAs, it ignores the actual problems caused by CIAC.

5 **J. ICFA Language.**

6 Maricopa points to language in the ICFAs requiring Global to build infrastructure to
7 serve the land covered by the ICFA.¹³⁵ That’s never been a secret – from the very beginning
8 Global said ICFAs allow Global to build infrastructure by partially covering the carrying costs
9 associated with the infrastructure.¹³⁶ A contract that requires building utility infrastructure does
10 not automatically result in AIAC or CIAC; rather under the Commission’s rules, AIAC or CIAC
11 is created only if the developer provides the funds to build the infrastructure.¹³⁷ Moreover, ICFA
12 infrastructure requirements are quite limited. As Mr. Hill explained, ICFAs require Global to
13 bring “water, wastewater, recycled water to a very particular point at a very specific time, but
14 other than that they [the developers] have no say.”¹³⁸ In contrast, main extension agreements
15 allow the developer too much control over the type of infrastructure that is built, resulting in
16 cheap infrastructure built to a low standard.¹³⁹

17 The language in the ICFAs concerning funding is very clear – the developer pays “an
18 approximation of the carrying cost associated with the interest and capitalized interest associated
19 with the financing of infrastructure... until such time as the rates associated [with the
20 infrastructure]... generate sufficient revenue to carry the ongoing carrying cost for this
21 infrastructure.”¹⁴⁰ Moreover, the agreements specifically state that the fees are not intended to be
22 “payment of principal, a contribution or advance to the utilities.”¹⁴¹

23
24 ¹³⁵ Maricopa Br. at 5-7.

25 ¹³⁶ Global Comments filed on June 23, 2006 in Docket No. W-00000C-06-0149 at 4:4-13; *see*
26 *also* Ex. A-12 (Rowell Direct) at 8-12.

27 ¹³⁷ A.A.C. R14-2-401.1; R14-2-401.8; R14-2-406.A.

¹³⁸ Tr. at 257:24 to 258:2.

¹³⁹ Tr. at 143:8-10.

¹⁴⁰ Ex. A-49 at 5, Recital H; Ex. A-46 at 8.

¹⁴¹ Ex. A-49 at 5, Recital H; Ex. A-46 at 8.

1 In addition, the ICFA's require the developers to "use and accept reclaimed water
2 distribution mains" and to build a recycled water "storage facility or retention lake structure" for
3 each section of land.¹⁴² The Belmont ICFA states "that the applicable property owners
4 association ("HOA") shall be obligated to use recycled water"¹⁴³ and requires the developer to
5 build recycled water distribution lines to each residential lot.¹⁴⁴ In contrast, main extension
6 agreements cannot include these recycled water requirements.¹⁴⁵

7 **K. Response to WUAA.**

8 WUAA's brief explains why evaluating CIAC requires a two-step process to prevent the
9 CIAC from being double-counted.¹⁴⁶ WUAA cites statements from Staff's and RUCO's
10 witnesses in support of the two-step approach. Global wholeheartedly agrees.

11 **L. Response to NWP.**

12 New World Properties (NWP) supports Global's position on the ratemaking treatment of
13 ICFA fees.¹⁴⁷ However, NWP expresses possible "concerns regarding the implementation" of
14 ICFA's, especially the "possibility of unequal treatment."¹⁴⁸ NWP does not cite to the record to
15 support such concerns nor has NWP stated that it was treated unequally. Moreover, Ms. Jaress
16 testified that Staff is not aware of any complaints by developers "regarding unequal
17 treatment."¹⁴⁹

18 **IV. Rate Design.**

19 The key to Global's rate design is providing clear incentives to both the utility and the
20 customer to conserve. This is based on a combination of six tiers and a volumetric rebate, as
21 well as an increased monthly charge. Staff argues that the volumetric rebate may cause the
22 Global Utilities to over-earn, although Staff concedes that the Global Utilities could also under-

24 ¹⁴² Ex. A-49 at 22, Section 5; see also Tr. at 148:2-4.

25 ¹⁴³ Ex. A-46 at 12, Section 8(a).

26 ¹⁴⁴ Ex. A-46 at 15-16, Section 8(g).

26 ¹⁴⁵ Tr. (Hill) at 148:2-8; 258:7-18.

26 ¹⁴⁶ WUAA brief at 4-7.

27 ¹⁴⁷ NWP Br. at 2:21-22.

27 ¹⁴⁸ NWP Br. at 2:23 and 3:2.

27 ¹⁴⁹ Ex. S-10 (Jaress Direct) at 8:18-20.

1 earn.¹⁵⁰ In this respect, the rebate is like any other rate element based on the test year- if future
2 years differ from the test year the utility could over-earn or under-earn. Staff and RUCO also
3 argue that many customers are already below the rebate threshold, suggesting that the rebate will
4 not provide them with any incentive. However, customers can increase their usage, and the
5 rebate could deter those customers from increasing their usage for fear of losing their rebate.

6 RUCO supports the six-tier rate design, stating that it will “send a proper price signal to
7 conserve water.”¹⁵¹ Global agrees.

8 **V. Rate of Return.**

9 **A. Capital Structure.**

10 Staff argues that the Commission should adopt a hypothetical capital structure for Willow
11 Valley and Valencia-Town, because those utilities have more than 60% equity.¹⁵² But there is
12 no firm 60% cap on equity ratios, and the Commission has approved 100% equity ratios on a
13 number of occasions. In addition, Global supports RUCO’s composite capital structure, which
14 brings Willow Valley and Valencia-Town very close to Staff’s self-imposed 60% target.

15 **B. Cost of Equity.**

16 Staff and Global agree that the cost of equity should be 10%. RUCO argues there is no
17 “substantial evidence” to support this figure because Staff and Global relied on recent ACC
18 decisions and recent Staff testimony from other cases. But the Staff testimony from those other
19 cases was entered into the record,¹⁵³ thus providing a solid evidentiary basis for the 10%. Ms.
20 Jaress and Mr. Rowell testified that they would use the same methods if they were to prepare
21 new estimates for this case.¹⁵⁴ RUCO points to various differences between Global and those
22 other cases, which RUCO suggests would change the cost of equity. In particular, RUCO
23 mentions different “operating expenses”, different “operating revenue”, different rate bases,
24 different parent companies and Global’s use of TWM.¹⁵⁵ But RUCO’s expert does not rely on

25 ¹⁵⁰ Staff Br. at 16-17.

26 ¹⁵¹ RUCO Br. at 27:13-14.

27 ¹⁵² Staff Br. at 9:7-15.

¹⁵³ Ex. A-16; Ex. A-17; Ex. A-18.

¹⁵⁴ Tr. (Jaress) at 769:11-14; Tr. (Rowell) at 415:5-20.

¹⁵⁵ RUCO Br. at 24:6-18.

1 any of these differences in his cost of equity testimony.¹⁵⁶ Moreover, RUCO uses the same cost
2 of equity for each of the Global Utilities, even though they certainly have different operating
3 expenses, operating revenues and rate bases. RUCO also mentions that Global has “spent
4 millions and millions of dollars on acquiring distressed utilities with little or no rate base,” and
5 that CIAC reduces risk, and that the Global Utilities “do not favor CIAC.” But RUCOs’ cost of
6 capital witness does not use these factors either. And if these factors – lower amounts of CIAC
7 and investing millions in distressed utilities – have any impact on cost of equity, it would be to
8 increase Global’s cost of equity above the 10% from recent cases. RUCO, of course, does not
9 recommend that.

10 **VI. Other issues.**

11 Maricopa makes passing reference in its introduction to “customer care” and “shut off”
12 issues. Maricopa provides no citation to the record, and does not request any specific relief. In
13 any event, Mr. Hill explained Global’s actions to improve customer care and to reduce shut
14 offs.¹⁵⁷

15 Global has not addressed every issue or point raised in the briefs of the other parties; on
16 those issues Global relies on its opening brief.

17 **VII. Conclusion.**

18 Global cannot pursue acquisitions or total water management if ICFA fees are treated as
19 CIAC. The Commission has used traditional methods for a long time; those methods have not
20 resulted in TWM or acquisitions. The Commission cannot expect that doing the same thing will
21 produce a different result.

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¹⁵⁶ See Ex. R-6 (Rigsby Cost of Capital Direct); Ex. R-7 (Rigsby Surrebuttal) at 14-22.

¹⁵⁷ Tr. at 239-42.

1 RESPECTFULLY SUBMITTED this 19th day of February 2010.

2
3 ROSKA DEWULF & PATTEN, PLC

4
5 By Timothy J. Sabo

6 Michael W. Patten

7 Timothy J. Sabo

8 One Arizona Center

9 400 East Van Buren Street, Suite 800

10 Phoenix, Arizona 85004

11 *Attorneys for Global Utilities*

12 **Original +13 copies of the foregoing**
13 **filed this 19th day of February 2010, with:**

14 Docket Control

15 Arizona Corporation Commission

1200 West Washington

Phoenix, AZ 85007

16 **Copies of the foregoing hand-delivered/mailed**
17 **This 19th day of February 2010, to:**

18 Lyn A. Farmer, Esq.

19 Chief Administrative Law Judge

20 Hearing Division

21 Arizona Corporation Commission

1200 West Washington

Phoenix, AZ 85007

22 Janice Alward, Esq.

23 Chief Counsel, Legal Division

24 Arizona Corporation Commission

1200 West Washington

Phoenix, AZ 85007

25 Steve Olea

26 Director, Utilities Division

27 Arizona Corporation Commission

1200 West Washington

Phoenix, AZ 85007

1 Daniel W. Pozefsky, Esq.
2 Chief Counsel,
3 Residential Utility Consumer Office
4 1110 West Washington Street, Suite 220
5 Phoenix, AZ 85007

6 **Copies of the foregoing were delivered**
7 ***Via E-Mail* this 19th day of February 2010 to:**

8 Greg Patterson, Esq.
9 WUAA
10 916 W. Adams – 3
11 Phoenix, AZ 85007

12 Garry D. Hays, Esq.
13 Law Offices of Garry D. Hays, P.C.
14 1702 E. Highland Avenue, Suite 316
15 Phoenix, AZ 85016

16 Court S. Rich, Esq.
17 Rose Law Group, pc
18 6613 N. Scottsdale Road, Suite 220
19 Scottsdale, AZ 85250

20 **Copy of the foregoing was sent**
21 ***Via U.S. Certified Mail* this 19th day of**
22 **February 2010 to:**

23 Rick Fernandez
24 25849 W. Burgess Lane
25 Buckeye, AZ 85326

26
27
By 